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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,759	05/02/2001	Mark J. Hall	HANDEV.002RA	6043

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EXAMINER

GIBSON, ROBERT W

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/27/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,259

Applicant(s)

Hall

Examiner

Apbism

Group Art Unit

3634

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE Three(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-48 is/are pending in the application.
 - Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 5, 13, 18-19 is/are allowed.
- ☒ Claim(s) 1-4, 9-12, 15-17, 20-48 is/are rejected.
- ☒ Claim(s) 6-8 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3 the alternative expression "on or under" renders the claims vague and indefinite.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

3. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 14-17, 20, 25, 26, 29, 30-32, 36, 38, 39, 40, 41 and 43 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Titus '964.

Note front rod-like member 33 and rear rod like member 17h.

5. Claims 45-48 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There appears to be no basis for claiming a "shelf inclined relative to a horizontal plane" as recited in claim 45, line 2.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24, 27, 28, 33, 34, 35, 37, 42, 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Titus '964.

To substitute one fastening means (e.g. threaded fasteners) for another is considered to be well within the purview of one skilled in this art. Also, relative dimensions and angles are generally considered to be a matter of choice and design.

8. Claims 9-12, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Titus '964 in view of Coretti or Arnone.

It is old and well known to provide a panel in front of a gravity feed device, and it would have been obvious to provide a panel on Titus as taught by Coretti or Arnone.

9. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

10. The patents to Dickson, Leadbetter, Sutherland, Berman et al, and Carpinelli are cited to show similar structures.

11. Claims 6-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


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12. Claims 5, 13, 18, 19 are allowed.

Gibson/cw
November 19, 2001


ROBERT W. GIBSON, JR.
PRIMARY EXAMINER
ART UNIT 3634